

TRI-WEEKLY YEOMAN.

DECISIONS OF THE COURT OF APPEALS.

KENTUCKY COURT OF APPEALS, FRANKFORT, October 21, 1882.

T. Tinley vs. Alfred Martin, &c. Judge Payor delivered the opinion of the Court, as follows:

Martin and Busse were sub-contractors under Smith, the master, and were to build for Tinley a house. The two sub-contractors (Martin and Busse) having performed labor and furnished materials for the building, gave notice of their purpose to assign a lien under the mechanic's lien law.

An interview was had by all the parties and their attorneys, for the purpose of adjusting the trouble in regard to the lien, and it was then agreed that Smith, the contractor, should take a note held by Tinley on one McLaughlin for eight hundred and twenty-five dollars, to be assigned by Tinley to Smith, and by the latter to Martin, the appellant contractor, and as the appellants insist, was held by Martin for both himself and Busse, and that transfer was known by Tinley.

Tinley did assign the note to Smith, on the 27th of June, 1874, agreeing in the assignment to be bound to Smith or his assigns in the event, after the exercise of the proper diligence by him, the money was not made on the McLaughlin note. Smith, at the same time or on the same day, assigned the McLaughlin note to Martin, by the ordinary indorsement upon it.

Some time after the assignment made by Smith to Martin of the note to Busse, McLaughlin went into bankruptcy and the assignee, Martin, failing to make the money on the note, Tinley became liable by reason of the assignment.

After the insolvency of McLaughlin, the appellant, Tinley, ascertained that Hildecker & Co. held a note on Martin for \$870, with interest, and Martin being insolvent, Tinley proposed to Hildecker & Co. to assign him the note they held on Martin, and that he might use it as a set-off against Martin's claim upon him by reason of the assignment of the McLaughlin note. After consulting with his attorneys, and being advised that he could use the note of Martin to Hildecker & Co. as a set-off, he, Tinley, agreed with Hildecker & Co. that, as far as he could, he would give his purposes in that way, he would give him fifty cents to the dollar, and upon this agreement, the note was assigned him on Martin.

After the note was assigned, Tinley instituted his ordinary action upon it against Martin, and was, without any notice of the McLaughlin note, not the real owner, and also pleading as a set-off the liability of Tinley to him by reason of the note assigned on McLaughlin.

Busse came into the case, by petition and answer, insisting that he was a party to the McLaughlin note, and that he had been assigned to him by Martin, and that Tinley had full knowledge of the fact that it was intended for his benefit as well as Martin's, at the time Smith made the assignment to Martin.

Tinley alleges that he had no such knowledge, and was, without any notice of the McLaughlin note, not the real owner, and also pleading as a set-off the liability of Tinley to him by reason of the note assigned on McLaughlin.

The testimony of the parties and their attorneys was heard, and shows, on behalf of Busse, that when the assignment was made by Smith to Martin, it was agreed and understood that a part of the note assigned on the extent of Busse's claim for work, was to be assigned to him or for his benefit; that Tinley was present and heard it. This was denied by Tinley, and both Tinley and his attorney say that they heard no such consideration or agreement.

Why should they? No man or woman can satisfactorily work when the brain is dead, the nerves unsteady, the system reeling, and they feel generally wretched. Why should anybody drag through their work in this condition, when a bottle of Parker's Ginger Tonic will, at moderate cost, give them the strength and will to perform their duties satisfactorily.

Woman is the only problem, that man can't solve and won't give up. She is a mystery; she is a conundrum. When she will, she will. When she won't, she won't. You may depend on it.

Why she will suffer month after month with a pain in her back, when Smith's Extract of May Flower will give her speedy and permanent relief, is a question that perplexes the mind of man—but— "If she will, she will."

THE HEIGHT OF POLLY. To wait until you are in bed with disease you may not get over for months, is the height of folly, when you might be easily cured during the early symptoms by Parker's Ginger Tonic. We have had many ladies made the healthiest by a timely use of this pure medicine.—Observer.

Gouraud's Olympan Cream has from the time of its general introduction received the unequalled commendation of the beauty and fashion of the land. Its intrinsic excellence and peculiar adaptation to the toilet has secured it an instant preference over every competing article, a preference due to no puffery or extravagant laudation of its merits. No lady has ever given it a trial without becoming its lasting patron, or has failed to confirm every excellent claim in its behalf. Contains no lead, zinc, bismuth, chalk or other harmful ingredients. In white or pink for blonde or brunette. W. H. Averill, agent.

A GENUINE TONIC. Iron and calissaya bark in proper combination with the phosphates, have long been regarded as the purest remedial agent for dyspepsia, general debility, and the long train of ill that follow a weakened physical nature. Dr. Harter's Iron Tonic has proven the superior value of such a combination. It is a remedy that has come into general use from the troubles indicated, and no prominent druggist throughout the country is without it, so wide spread is the public demand for it. Iron of itself and calissaya bark as well as the two great specifics so much used—very disagreeable medicines to take, and physicians often dislike to give them. In Dr. Harter's Tonic they are combined in a palatable preparation, and the long train of ill that follow a weakened physical nature, may be used as a set-off, a court of equity, where the rights of others than the party who owes the note intervenes, would be reluctant to sanction such a speculation by aiding the party making the venture to defeat an acknowledged equity. Such contracts ought not to be favored by either the chancellor or common law judge, but where the debtor is alone involved, it may be that he will not be heard to complain for being compelled to discharge a debt he justly owes. So far, then, as the judgment in favor of Busse is concerned, it must be affirmed.

We do not understand the judgment in favor of Martin recovered of the plaintiff, Tinley, the sum of \$477.80, with interest from June 27th, and costs; but it is further provided that Tinley is not to pay that judgment until further order.

The judgment, however, is far too much regarded as final, as Martin admits in his answer the payment of the note, and this should be credited; but it is not final, as the cases reserved to settle the claim as between Hildecker & Co. and Tinley, and no execution can issue in favor of Martin.

As between Hildecker & Co., Tinley and Martin, the latter is still under an obligation to the court below, and the suggestion as to the credit of sixty dollars is not mandatory. The appeal as to Martin and Hildecker & Co. is dismissed, and the judgment in favor of Busse is affirmed.

J. F. & C. H. Fick for appellants. Cleary, Hamilton & Cleary for appellees.

RESOURCES OF TEXAS.

(From the New York World.)

Mr. C. E. Satterlee, secretary and treasurer of the Texas and Pacific Railway, has returned to the city after an inspection of the country below, and the suggestion as to the credit of sixty dollars is not mandatory.

The appeal as to Martin and Hildecker & Co. is dismissed, and the judgment in favor of Busse is affirmed.

J. F. & C. H. Fick for appellants. Cleary, Hamilton & Cleary for appellees.

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The desire for stimulants is becoming a monstrous evil and how to overcome it is a serious question with reformers. Parker's Ginger Tonic fairly solves the difficult problem. It invigorates body and mind without intoxicating, and has brought health and happiness to many desolate homes.—Englishman.

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The most lustrous eyes, the skinniest of hair, the fairest of complexion, the pearl of teeth, or most coral of lips gladden the eye in no such degree as a clear, smooth and velvety complexion, for a woman with such a charm is rich in the beauty that all men adore.

Ladies deficient in the supreme attraction of their sex will find their need made good by the use of Gouraud's Olympan Cream, in white or pink, for blonde or brunette. Price, one dollar, sent by express. A. H. Gouraud, 102 Greenwich Street, New York.

Dr. Pierce's "Pellets"—the original "Little Liver Pills" (sugar-coated)—cure sick and bilious headache, sour stomach, and bilious attacks. By druggists.

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Piles are frequently preceded by a sense of weight in the back, loins, and lower part of the abdomen, causing the patient to suppose he has some affection of the kidneys or neighboring organs. At times symptoms of indigestion are present, as flatulency, uneasiness of the stomach, etc. A moisture like perspiration, producing a very disagreeable itching, particularly at night after getting warm in bed, is a very common attendant. Internal, external and itching Piles yield at once on the application of Dr. Bosanko's Pile Remedy, which acts directly upon the parts affected, absorbing the tumors, allaying the intense itching, and affecting a permanent cure where all other remedies have failed. Do not delay until the drain on the system produces permanent disability, but try it and be cured. Price, 50 cents. Ask your druggist for it, and when you cannot obtain it of him, we will send it prepaid, on receipt of price. Address Dr. Bosanko Medicine Co., Piqua, Ohio. Sold by Hughes & Chiles.

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Remember that stamina, vital energy, the life-principle, or whatever you may choose to call the resistant power which battles against the cause of disease and death, is the grand safeguard of health. It is the garrison of the human fortress, and when it waxes weak, the foe pushes in by such enormous forces. In other words, when such an emergency occurs, commence a course of Hostetter's Bitters. For sale by all druggists and dealers, to whom apply for Hostetter's Almanac for 1883.

Proclamation by the Governor. \$250 REWARD.

COMMONWEALTH OF KENTUCKY, EXECUTIVE DEPARTMENT.

WHEREAS, IT HAS BEEN MADE KNOWN to me that a person or persons unknown, on or about the 10th day of November, in the county of Daviess, State of Kentucky, murdered one John Field, and are now fugitives from justice going at large.

Now, therefore, I, LUKE P. BLACKBURN, Governor of the Commonwealth aforesaid, do hereby offer a reward of TWO HUNDRED AND FIFTY DOLLARS for the apprehension of said person or persons, and his or their delivery to the jailer of Daviess county.

In testimony whereof, I have hereunto set my hand, and caused the seal of the Commonwealth to be affixed. Done at Frankfort, the 10th day of October, in the year of our Lord one thousand eight hundred and eighty-two, and in the ninety-first year of the Commonwealth.

By the Governor, LUKE P. BLACKBURN, Governor of the Commonwealth, Secretary of State.

Dr. Harter's IRON TONIC.

Is a preparation of Protolide of Iron, Peruvian Bark and the phosphates, associated with the most powerful and purest remedial agent for dyspepsia, general debility, and the long train of ill that follow a weakened physical nature. Dr. Harter's Iron Tonic has proven the superior value of such a combination. It is a remedy that has come into general use from the troubles indicated, and no prominent druggist throughout the country is without it, so wide spread is the public demand for it. Iron of itself and calissaya bark as well as the two great specifics so much used—very disagreeable medicines to take, and physicians often dislike to give them. In Dr. Harter's Tonic they are combined in a palatable preparation, and the long train of ill that follow a weakened physical nature, may be used as a set-off, a court of equity, where the rights of others than the party who owes the note intervenes, would be reluctant to sanction such a speculation by aiding the party making the venture to defeat an acknowledged equity. Such contracts ought not to be favored by either the chancellor or common law judge, but where the debtor is alone involved, it may be that he will not be heard to complain for being compelled to discharge a debt he justly owes. So far, then, as the judgment in favor of Busse is concerned, it must be affirmed.

A CARD. To all who suffer from the errors and indiscretions of youth, nervous weakness, early decay, loss of manhood, &c., I will send you a recipe that will cure you, FREE OF CHARGE. This great remedy was discovered by a missionary in South America. Send a self-addressed envelope to the Rev. JOSEPH T. INMAN, Station 2, New York.

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Proclamation by the Governor. \$250 REWARD.

COMMONWEALTH OF KENTUCKY, EXECUTIVE DEPARTMENT.

WHEREAS, IT HAS BEEN MADE KNOWN to me that THOMAS JONES stands indicted in the county of Kenton, State of Kentucky, for the wilful murder of Ben Bromley, and is now a fugitive from justice, going at large.

NEW ADVERTISEMENTS.

BROWN'S IRON BITTERS.

TRADE MARK.

BROWN'S IRON BITTERS.

A TRUE TONIC.

BROWN'S IRON BITTERS are a certain cure for all diseases requiring a complete tonic, especially Indigestion, Dyspepsia, Intermittent Fevers, Want of Appetite, Loss of Strength, Lack of Energy, etc. Enriches the blood, strengthens the muscles, and gives new life to the nerves. Acts like a charm on the digestive organs, cures all dyspeptic symptoms, such as tasting the food, Belching, Heat in the Stomach, Heartburn, etc. The only Iron Preparation that will not blacken the teeth or give headache. Sold by all Druggists at \$1.00 a bottle.

BROWN CHEMICAL CO., Baltimore, Md.

Proclamation by the Governor. \$500 REWARD.

COMMONWEALTH OF KENTUCKY, EXECUTIVE DEPARTMENT.

WHEREAS, IT HAS BEEN MADE KNOWN to me that JOHN MATTHEWS, charged with the murder of Andrew Duncan, in the county of Ohio, State of Kentucky, on or about the 25th day of October, 1882, is now a fugitive from justice, going at large.

Now, therefore, I, LUKE P. BLACKBURN, Governor of the Commonwealth aforesaid, do hereby offer a reward of FIVE HUNDRED DOLLARS for the apprehension of said John Matthews, and his delivery to the jailer of said Ohio county.

In testimony whereof, I have hereunto set my hand, and caused the seal of the Commonwealth to be affixed. Done at Frankfort, the 10th day of November, in the year of our Lord one thousand eight hundred and eighty-two, and in the ninety-first year of the Commonwealth.

By the Governor, LUKE P. BLACKBURN, Governor of the Commonwealth, Secretary of State.

DESCRIPTION.

Said John Matthews is about 26 years of age; has dark, short hair, brown mustache; rather low, square forehead; peculiar expression about the mouth; small scar under one of his eyes; is about 5 feet 6 inches in height and weighs about 140 pounds; and is rather square built.

Proclamation by the Governor. \$300 REWARD.

COMMONWEALTH OF KENTUCKY, EXECUTIVE DEPARTMENT.

WHEREAS, IT HAS BEEN MADE KNOWN to me that GEORGE W. LAWELL, charged with the murder of William Fisher, in the county of Hart, Kentucky, with the crime of wilfully and maliciously cutting and wounding another person with intent to kill, on the 20th day of September, 1882, and are now fugitives from justice going at large.

Now, therefore, I, LUKE P. BLACKBURN, Governor of the Commonwealth aforesaid, do hereby offer a reward of THREE HUNDRED DOLLARS for the apprehension of said George W. Lawell and William Fisher, and his or their delivery to the jailer of Hart county.

In testimony whereof, I have hereunto set my hand, and caused the seal of the Commonwealth to be affixed. Done at Frankfort, the 10th day of October, in the year of our Lord one thousand eight hundred and eighty-two, and in the ninety-first year of the Commonwealth.

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One hundred other styles at \$30, \$35, \$40, \$45, \$50, \$55, \$60, \$65, \$70, \$75, \$80, \$85, \$90, \$95, \$100, \$105, \$110, \$115, \$120, \$125, \$130, \$135, \$140, \$145, \$150, \$155, \$160, \$165, \$170, \$175, \$180, \$185, \$190, \$195, \$200, \$205, \$210, \$215, \$220, \$225, \$230, \$235, \$240, \$245, \$250, \$255, \$260, \$265, \$270, \$275, \$280, \$285, \$290, \$295, \$300, \$305, \$310, \$315, \$320, \$325, \$330, \$335, \$340, \$345, \$350, \$355, \$360, \$365, \$370, \$375, \$380, \$385, \$390, \$395, \$400, \$405, \$410, \$415, \$420, \$425, \$430, \$435, \$440, \$445, \$450, \$455, \$460, \$465, \$470, \$475, \$480, \$485, \$490, \$495, \$500, \$505, \$510, \$515, \$520, \$525, \$530, \$535, \$540, \$545, \$550, \$555, \$560, \$565, \$570, \$575, \$580, \$585, \$590, \$595, \$600, \$605, \$610, \$615, \$620, \$625, \$630, \$635, \$640, \$645, \$650, \$655, \$660, \$665, \$670, \$675, \$680, \$685, \$690, \$695, \$700, \$705, \$710, \$715, \$720, \$725, \$730, 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